	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 1 of 13

15.30001 Contents

<u>Page</u>	<u>Section Title</u>
1	15.30002 Scope
1	15.30003 Purpose
1	15.30004 References
2	15.30005 Definitions
3	15.30010 Statement of Policy
3	15.30011 Authority
3	15.30012 Employees and Persons Protected
4	15.30013 Actions Prohibited
4	15.30014 Nature of Information Disclosed
5	15.30015 To Whom Whistle-blower Information Disclosed
5	15.30016 Investigation and Reporting of Whistle-blower Information
8	15.30017 Confidentiality
10	15.30018 Remedies for Adverse Personnel Action
11	15.30019 Relief from Adverse Personnel Action
12	15.30097 Delegation of Authority


15.30002 Scope

This policy outlines the process for disclosing, investigating and maintaining the confidentiality of information regarding allegations of violations of the law on the part of an employee or agent of the District or independent contractor that create a substantial and specific danger to the public's health, safety or welfare.

15.30003 Purpose

The purpose of this policy is to establish a process for disclosing information to the appropriate authority within the District and implementing the Florida Whistle-blower's Act, with the intent of preventing retaliatory action against an employee who reports violations of laws or improper use of government office, gross waste of funds, or any other abuse or gross neglect of duty committed by an independent contractor or an employee or agent of the District.

Recognizing that the State of Florida has adopted its own Whistle-blower's Act, Fla. Statute. Sections 112.3187, et. (1993), the District intends that this policy be interpreted consistently with the State Act, as it may from time to time be amended.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 2 of 13

15.30004 References

District Policies

Ethics	03.801
Audit Committee Charter	15.100
Internal Audit Charter	15.200

Florida Statutes

Whistle-blower's Act	Sections 112.3187-112.31895, F.S.
Public Record	Chapter 119, F.S.

15.30005 Definitions

Adverse personnel action	The discharge, suspension, transfer or demotion of any employee, the reduction in salary or benefits or any other adverse action taken against an employee within the terms and conditions of employment by the District.
Complainant	An employee, a temporary or probationary employee, an applicant for employment, or an independent contractor who claims to have made a protected disclosure of information as defined by this policy, or employee who claims to be subjected to adverse action as a result of making such a protected disclosure of information.
District	South Florida Water Management District
Employee	Person who performs services for, and under the control and direction of, or contracts with, the District.
Executive Director	The Executive Director or his designee.
General Counsel	The General Counsel or his designee
Gross Mismanagement	A continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions or fraudulent or criminal conduct which may have a substantial adverse economic impact.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 3 of 13

Independent contractor A person, other than an agency, engaged in any business and who enters into a contract with the District.

Inspector General The Inspector General or his designee.

Improper act Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty.

Violation of law Violation or suspected violation of any federal, state or local law, rule or regulation which creates and presents a substantial and specific danger to the public's health, safety or welfare.

All other words or terms used in this policy shall have the same meaning as such words and terms have under the Florida Whistle-blower's Act.

15.30010 Statement of Policy


It is the policy of the South Florida Water Management District to ensure that employees and persons who have knowledge of unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds by the District, its employees or independent contractors, shall report such knowledge to the appropriate authority for investigation and corrective action. In order to encourage reporting of such information without fear of reprisal, it shall be the policy of the District to prohibit and redress adverse personnel action taken against employees for making such a protected disclosure.

15.30011 Authority

Florida Statutes 112.3187 through 112.31895, constitute the "Whistle-blower's Act" and are incorporated into this procedure by reference as if fully set forth herein. In the event of any inconsistency between this procedure and the Whistle-blower's Act, the provisions of the act shall apply.

15.30012 Employees and Persons Protected

This policy protects employees, with the District who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by the District, any state agency, or federal government entity; who refuse to participate in any adverse action prohibited by this policy; or who are otherwise protected by the Florida Whistle-blower's Act.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 4 of 13

The provisions of this policy shall not be applicable when the employee discloses information known by the employee to be false.

The provisions of this policy may not be used by persons while they are under the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration.

No remedy or other protection provided by this policy shall apply to any employee who has committed or intentionally participated in committing a violation or suspected violation for which protection under this policy is being sought.

The fact that the adverse personnel action was based upon grounds other than, and would have been taken absent, the employees exercise of rights protected by this policy shall be an affirmative defense to any such complaint brought under this policy.

15.30013 Actions Prohibited

The District shall not dismiss, discipline or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this policy.

The District shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this procedure.

15.30014 Nature of Information Disclosed

The information disclosed under this policy must include:

1. Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the District **or an independent contractor** which creates and presents a substantial and specific danger to the public's health, safety or welfare.
2. Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty committed by an employee or agent of the District or an **independent contractor**.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 5 of 13

5.30015 To Whom Whistle-blower Information Disclosed

The information disclosed under this policy consistent with Florida Statutes 112.3187(b) shall be disclosed to the District Inspector General.

The Inspector General shall be responsible for receiving, investigating, and reporting to the appropriate authorities at the conclusion of any investigation arising from any disclosure covered under this policy.

Information must be disclosed in writing directly to the District's Inspector General addressed to:

Inspector General
Office of Inspector General
South Florida Water Management District
P. O. Box 24680
West Palm Beach, FL 33416-4680

In the event the whistle-blower information concerns the Inspector General's Office or the adverse personnel action is alleged to have been committed by the Inspector General's Office, the complaint shall be filed with the General Counsel addressed to:

General Counsel
Office of Counsel
South Florida Water Management District
P.O. Box 24680
West Palm Beach, FL 33416-4680

The General Counsel shall be responsible for receiving, investigating and reporting to the appropriate authorities at the conclusion of any investigation arising from any disclosure covered under this policy and otherwise performing the duties of the Inspector General as provided herein.

15.30016 Investigation and Reporting of Whistle-Blower Information

When a complainant alleges information described in Section 15.30014 in writing to the Inspector General, the Inspector General shall determine within 20 days:

1. Whether the information disclosed is the type of information described in section 15.30014.
2. Whether the information actually disclosed demonstrates reasonable cause to suspect that an independent contractor or an employee or agent of the District:

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 6 of 13

a. has violated any federal, state, or local law, rule or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or

b. has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

If the Office of Inspector General determines that the information disclosed is not the type of information described in 15.30014, or that the information disclosed does not demonstrate reasonable cause to suspect that an employee or agent of the District or an independent contractor with the District has violated any federal, state, or local law, rule or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Office of Inspector General shall notify the complainant of such fact and copy and return, upon request of the complainant, any documents and other materials that were provided by the complainant.

If the Office of Inspector General determines that the information disclosed is the type of information described in 15.30014, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of the District or an independent contractor with the District has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed any act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Inspector General making such determination shall then conduct an investigation, unless the Inspector General determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary.

For purposes of this section, the Inspector General shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. the gravity of the disclosed information compared to the time and expense of an investigation;
2. the potential for an investigation to yield recommendations that will make the District more efficient and effective;
3. the benefit to the District to have a final report on the disclosed information;

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 7 of 13

4. whether the alleged whistle-blower information primarily concerns personnel practices of the type described in District Human Resources Administrative Policies, Procedures or Rules;
5. whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative; or
6. the time that has elapsed between the alleged event and the disclosure of the information.

If the Inspector General determines using the above factors that an investigation is not necessary, the Inspector General making such determination shall:

1. copy and return, upon request of the complainant, any documents and other materials provided by the individual who made the disclosure; and
2. inform the Governing Board, in writing, that the investigation is not necessary; and
3. inform the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be further acted on under this section.

If the Office of Inspector General determines that an investigation should be conducted, the Office of Inspector General shall:

1. conduct an investigation with respect to the information and any related matters; and
2. submit to the complainant within 60 days after the date on which a determination to conduct an investigation was made, a final written report that sets forth the findings, conclusions, and recommendations, except if an investigation produces evidence of a criminal violation, the report shall not be transmitted to the complainant, and the Office of Inspector General shall notify the appropriate legal authority; and
3. notify the complainant that the complainant may submit to the Office of Inspector General comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 8 of 13

Final reports must be signed by the Office of Inspector General and must include:

1. A summary of the information with respect to which the investigation was initiated.
2. A description of the conduct of the investigation.
3. A summary of any evidence obtained from the investigation.
4. A listing of any violation or apparent violation of any law, rule or regulation.
5. A description of any action taken or planned as a result of the investigation, such as:
 - a. A change in a district rule, regulation or procedure.
 - b. The restoration of an aggrieved employee. as provided in sec. 15.30019.
 - c. A disciplinary action against an employee.
 - d. The referral to the Department of Law Enforcement or other legal authority of any evidence of a criminal violation.

The final written report shall be transmitted to the Governing Board.

Any time period set forth in this procedure may be extended in writing by the Governing Board for good cause shown.

If an investigation under this procedure produces evidence of a criminal violation, the report shall not be transmitted to the complainant, and the Inspector General shall notify the Governing Board and the Department of Law Enforcement, subject to applicable confidentiality requirements.

15.30017 Confidentiality

- A. The name or identity of any individual who discloses in good faith to the Office of Inspector General information that alleges that an employee or agent of the District, or an independent contractor:
 1. has violated or is suspected of having violated any federal, state or local law, rule or regulation thereby creating and presenting a substantial and specific danger to the public's health, safety or welfare; or

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 9 of 13

2. has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty,

shall not be disclosed to anyone other than a member of the Office of Inspector General's staff without the written consent of the individual unless the Office of Inspector General determines that:

- a. the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety or welfare, or to prevent the imminent commission or a crime; or
- b. the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation or investigation.

- B. All information received by the Office of Inspector General or information produced or derived from fact finding is confidential and exempt from Section 119.07(1) Florida Statutes, provided the information is being received or derived from allegations as set forth in A.1. and A.2. above and an investigation is active.

1. Information deemed confidential under this section may be disclosed by the Office of Inspector General if the Inspector General determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection shall only be disclosed to persons who are in a position to prevent the danger to the public's health, safety or welfare or to prevent the imminent commission of a crime based on the disclosed information.

2. An investigation is active under this policy if:

- a. it is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future; or
- b. all or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information as defined in Section 119.011, Florida Statutes.

3. Notwithstanding paragraph 2.a. above, an investigation ceases to be active when:

- a. the final written report is sent to the Governing Board; or

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 10 of 13

b. it is determined that an investigation is not necessary.

Notwithstanding paragraphs 3.a. and 3.b. above, Information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under Chapter 119, Florida Statutes retain their confidentiality or exemption.

15.30018 Remedies For Adverse Personnel Action:

It is the policy of the District to encourage independent contractors, temporary and probationary employees, and applicants for employment as well as Regular District employees to disclose whistle-blower information.

Notwithstanding any other grievance procedure which may be applicable, an individual who believes that he or she has been subjected to adverse personnel action as a result of engaging in activity protected by the Whistle Blower Act, shall file a complaint with the District's Inspector General. This complaint must be made in writing and must be filed with the Inspector General within twenty (20) days of the alleged adverse action. Upon receipt of an adverse personnel action complaint; or upon referral of a grievance which contains allegations of whistle-blower retaliation from the Employee Relation Manager, the Inspector General shall conduct an investigation of the complaint of retaliation. The Inspector General shall complete such investigation within thirty (3) days of his receipt of the complaint, except the Inspector General shall have the authority to extend such time for reasonable cause.

Upon completion of the investigation, the Inspector General shall present the Executive Director with written findings as to whether or not there are reasonable grounds to believe that a prohibited personnel action under § 112.3187, F.S., has occurred or is occurring and where appropriate, make recommendations to remedy the prohibited personnel action.

The Executive Director shall thereafter render a decision as to the relief to be afforded, which shall be the final stage of this procedure. In the event, the complaint pertains to the Executive Director, the Inspector General shall present the General Counsel with the written findings of his investigation and the General Counsel shall then render a decision as to the relief to be afforded.

Notwithstanding, the procedures set forth in this policy, any person may bring a civil action in a court of competent jurisdiction within 180 days after the occurrence of the adverse personnel action.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 11 of 13

15.30019 Relief From Adverse Action

In any complaint brought under this policy in which the Inspector General has determined that there are reasonable grounds to believe that a prohibited personnel action under § 112.3187, F.S., has occurred or is occurring, the Executive Director may:

- (a) Reinstatement the District employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.
- (b) Reinstatement the District employee's full fringe benefits and seniority rights, as appropriate.
- (c) Provide compensation if appropriate, for lost wages, benefits or other lost remuneration caused by the adverse action.

	■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
	SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
					Page 12 of 13

15.30097 Delegation of Authority

Delegation of Authority		Type of Authority
From	To	
Governing Board	Inspector General	<ol style="list-style-type: none"> 1. Authority to receive, investigate and report to the appropriate authorities at the conclusion of any investigation. 2. Authority to determine within 20 days whether the information disclosed demonstrates reasonable cause to suspect that an employee or agent of the District, or independent contractor of misconduct. 3. Authority to determine within 20 days whether the source of the information is a person who is an employee or former employee of, or an applicant for employment with the District. 4. Authority to notify the complainant that the information disclosed does not demonstrates reasonable cause to suspect that an employee or agent of the District, or independent contractor of misconduct. 5. Authority to copy and return, upon request of the complainant, any documents and other materials that were provided by the complainant. 6. Authority to decide whether an investigation is not necessary. 7. Authority to inform the Governing Board, in writing, that the investigation is not necessary 8. Authority to inform the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be further acted on. 9. Authority to submit to the complainant within 60 days after the date on which a determination to conduct an investigation was made, a final written report that sets forth the findings, conclusions, and recommendations, except if an investigation produces evidence of a criminal violation. 10. Authority to notify the Governing Board and the Department of Law Enforcement, subject to applicable confidentiality requirements, if an investigation produces evidence of a criminal violation. 11. Authority to notify the complainant that the complainant may submit to the Office of Inspector General comments on the final report. 12. Authority not to disclose the name or identity of any individual who discloses in good faith to the Office of Inspector General



■ POLICY ■		Unit 1310	Revision 03	Original Effective Date 06/15/1995
SUBJECT 15.300 WHISTLE-BLOWER'S POLICY				Last Revision Date 06/12/2002
				Page 13 of 13

Delegation of Authority		Type of Authority
From	To	
Governing Board	Inspector General	<p>information that alleges that an employee or agent of the District, or an independent contractor has committed an improper act or violated a law.</p> <p>13. Authority to disclose the name or identity of any individual who discloses information after determining:</p> <ul style="list-style-type: none"> a. the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety or welfare, or to prevent the imminent commission or a crime; or b. the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation or investigation; and c. disclosure is made only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime.
Governing Board	General Counsel	<p>14. Authority to act in the place of the Inspector General for all purposes under this policy, in the event a whistle-blower complaint or a complaint of retaliation concerns the Inspector General.</p> <p>15. Authority to act in the place of the Executive Director in the event a whistle-blower complaint or a complaint of retaliation concerns the Executive Director.</p>
Governing Board	Complainant	16. Authority to submit to the Office of Inspector General comments on the final report.